

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

PERCY GREEN II,)	
)	
Plaintiff,)	
)	Case No. 4:06 CV 1667 RWS
v.)	
)	
CHARLES MCCRARY, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

On April 7, 2011 Plaintiff filed a motion pursuant to Federal Rule of Civil Procedure 59(e) to amend the judgments I entered on March 11, 2011 and August 17, 2010, granting summary judgment in favor of Defendants.

Under Rule 59(e), a party may file a motion to alter or amend a judgment no later than 28 days after the entry of judgment. Fed. R. Civ. P. 59(e). “Rule 59(e) motions serve the limited function of correcting manifest errors of law or fact or to present newly discovered evidence. Such motions cannot be used to introduce new evidence, tender new legal theories, or raise arguments which could have been offered or raised prior to entry of judgment.” U.S. v. Metro. St. Louis Sewer Dist., 440 F.3d 930, 933 (8th Cir. 2006) (internal citations omitted). A movant is not entitled to relief under Rule 59(e) when the movant “merely reassert[s] positions the district court [has] already rejected.” Prof'l Mgmt. Assoc., Inc. v KPMG, LLP, 345 F.3d 1030, 1033 (8th Cir. 2003) (district court did not abuse its discretion in denying Rule 59(e) motion where movant merely reasserted positions previously rejected); See also 11 C. Wright, A. Miller, & M. Kane, Federal Practice and Procedure § 2810.1 (2d ed. 1995 and Supp. 2001).


Plaintiff is not entitled to relief under Rule 59(e). Plaintiff has failed to identify a manifest

error of law or fact and has failed to present any newly discovered evidence. Instead, Plaintiff supports his Rule 59(e) motion with evidence and arguments he previously presented during the litigation of this case. Because Plaintiff attempts to relitigate his unsuccessful positions and does not present evidence that I have not previously considered, I will deny Plaintiff's motion.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion to Alter or Amend [#329] is **DENIED.**

IT IS FURTHER ORDERED that Plaintiff shall file a response to Defendants Adams, Gaines, McCrary, Miller, Special Administrative Board of Transitional School District of the City of St. Louis, and Sullivan's Motion for Bill of Costs [#326] and Motion for Costs [#327] no later than **May 20, 2011.**



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 9th day of May, 2011.